

A.G. Contract No.: KR05-0217TRN
ECS File No.: JPA 04-058
Project No.: Yuma City Project
Section: 5 & 1/2 East and B-8
Project: Yuma City Traffic Signal
TRACS No.: HX101 01C
Budget Source Item No.: 71205

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF YUMA

THIS AGREEMENT is entered into this date July 12, 2005, pursuant to Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF YUMA, acting by and through its MAYOR and the CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State and the City desire to participate in the design, construction, and maintenance of a new warranted traffic signal and related improvements, currently estimated at \$200,000.00, at the intersection of B8 and Avenue 5 1/2 E, Milepost (MP) 9.5, hereinafter referred to as the "Project". The State will provide 50% of the construction costs of the Project, less the cost for emergency pre-emptive equipment. The City will contribute 50% of the construction costs of the Project, plus 100% of the cost for pre-emptive emergency equipment. The City will design, construct, operate and maintain the signal and lighting and will provide electrical energy at activation.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 27617
Filed with the Secretary of State
Date Filed: 7/12/05
Janice K. Shewers
Secretary of State
By: David Rosenthal

II. SCOPE OF WORK**1. The City shall:**

a. Prepare and provide design plans, specifications and other such documents and services required for the construction bidding and construction of the Project and incorporate State comments into the documents.

b. Call for bids and award one or more construction contract(s) for the Project. Administer contract(s) and make all payments to the contractor(s). Be responsible for contractor claims for additional work attributable to the City.

c. Obtain the necessary "Right-of-Way Use Permit", through the Yuma District Maintenance Office, for the installation of the traffic signals and accessories, inside the State's right-of-way.

d. In the event unforeseen conditions or circumstance increase the cost of said work necessitated by a change in the Project's Scope of Work, such additional costs shall require prior approval of the State. All costs attributable to any engineering change orders requested solely by the City shall be the sole responsibility of the City.

e. Provide 100% of the estimated \$6,000 cost of the emergency pre-emptive equipment and 50% of the remainder of the Project construction contract award cost.

f. Upon execution of this agreement, invoice the State for 50% of the Project costs, excluding the cost of emergency pre-emptive equipment.

g. Upon completion and activation of the traffic signal and lighting, provide electrical energy to operate the equipment.

h. Operate and maintain the signal and lighting.

2. The State will:

a. Review the design documents required for the construction of the Project and provide comments to the City.

b. Grant the City a "Right-of-Way Use Permit", through the Yuma District Maintenance Office, to allow the City to work inside the State's Control of B-8 Access to permit the City to perform all planned maintenance work for the Project.

c. Upon completion of the Project, perform the final inspection and notify the City in writing that the Project has been constructed in accordance with the project documents and has been satisfactorily completed.

d. Upon execution of this agreement and within thirty-days (30) upon receipt of the invoice from the City, provide payment to the City for 50% of the Project construction contract award cost, less the estimated \$6,000 cost of emergency pre-emptive equipment. The current cost estimate for the total Project is \$200,000.00.

III. MISCELLANEOUS PROVISIONS

1. Each party to the Agreement is responsible for its own negligence.
2. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements; provided herein. However, any provisions for maintenance, provided by the City shall be perpetual. This Agreement may be cancelled at any time prior to the award of a Project construction contract, upon thirty-days (30) written notice to either party. It is understood and agreed that, in the event the City cancels this Agreement, the State shall in no way be obligated to maintain said Project.
3. This Agreement shall become effective upon filing with the Secretary of State.
4. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.
5. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.
6. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 121-1-12213) and all applicable Federal regulations under the Act including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".
7. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.
8. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.
9. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007
(602) 712-7525

City of Yuma
Attn: City Administrator
One City Plaza
P.O. Box 13014
Yuma, AZ 85366-3014

10. In accordance with Arizona Revised Statutes § 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

CITY OF YUMA

STATE OF ARIZONA

Department of Transportation

By Mark S. Watson
MARK S. WATSON
City Administrator

By Michael P. Manthey
MICHAEL P. MANTHEY, P.E.
State Traffic Engineer

ATTEST:

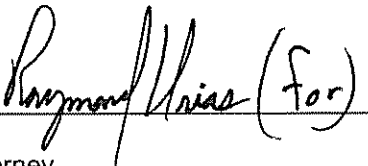
By Iana M. Martin, Deputy for
BRIGITTA M. KUIPER
City Clerk

JPA 04-058

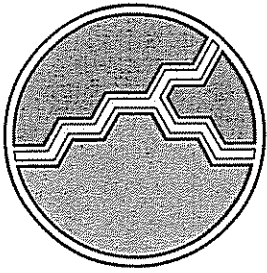
APPROVAL OF THE CITY OF YUMA

I have reviewed the above referenced intergovernmental Agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF YUMA, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 21 day of June, 2005.



City Attorney



City of YUMA

**Office of the
City Clerk**

One City Plaza
P O Box 13012
Yuma, Arizona 85366-3012
(928) 373-5035
FAX (928) 373-5036
TTY (928) 373-5149

CERTIFICATION

I, Edna M. Martin, do hereby certify that I am the duly appointed Deputy City Clerk of the City of Yuma, Arizona, and that the attached resolution, Resolution R2005-49, is a true and correct copy of the ordinance on file in the Office of the City Clerk.

Edna M. Martin, Deputy City Clerk

6.22.05

Date

RESOLUTION NO. R2005-49

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUMA,
ARIZONA, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT
WITH THE STATE OF ARIZONA, RELATED TO THE SIGNALIZATION
OF THE INTERSECTION OF BUSINESS ROUTE 8 (32ND STREET) AND
AVENUE 5½E**

WHEREAS, the State of Arizona (State) has determined that the signalization of the intersection of Business Route 8 (32nd Street) and Avenue 5½E is warranted; and,

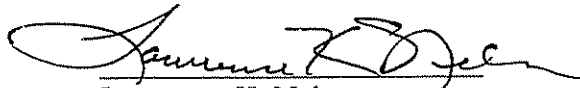
WHEREAS, the Business Route 8 approaches to said intersection are under the control of the State and the Avenue 5½E approaches to that intersection are controlled by the City of Yuma (City); and

WHEREAS, the State and the City realize and agree that the sharing of their resources will result in the expedited installation of the facility, while reducing the expenditure of resources by both parties.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Yuma, Arizona, that the City Administrator is authorized and directed to execute an Intergovernmental Agreement with the State of Arizona, as shown in Exhibit A, attached hereto and by this reference made a part hereof, for the signalization of the intersection of Business Route 8 (32nd Street) and Avenue 5½E.

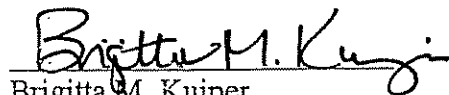
Passed and adopted this 15th day of June, 2005.

APPROVED:



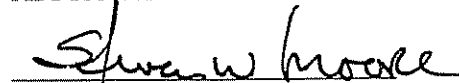
Lawrence K. Nelson
Mayor

ATTESTED:



Brigitta M. Kuiper
City Clerk

APPROVED AS TO FORM:



Steven W. Moore
City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR05-0217TRN (**JPA 04-058**), an Agreement between public agencies, i.e., *The State of Arizona* and *The City of Yuma*, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: July 7, 2005

TERRY GODDARD
Attorney General

A handwritten signature in cursive script that reads "Susan Davis".

Susan E. Davis
Assistant Attorney General
Transportation Section

SED:mjf
Attachment
912936